



**MASTER AGREEMENT**  
**("Agreement")**



<b>Client ("Client"):</b> Georgia Tech Athletic Association  <b>Address:</b> 150 Bobby Dodd Way NW Atlanta, Georgia 30332	<b>Client Administrator Contact:</b> Mike Castle Phone: E-mail: mcastle@athletics.gatech.edu  <b>Client Billing Contact:</b> Phone: E-mail:
<b>Description of Services:</b> For all Events (set forth in the relevant Order Form), subject to the Terms and Conditions attached as Exhibit A, Fevo will provide the following as part of the Services (defined in Section 1.1 of Exhibit A): <ul style="list-style-type: none"><li>o Fevo Widget and Pages</li><li>o Fevo Pages for any requested Group Sales Clients, Partners, Sponsors</li><li>o Sharing of Customer Data</li><li>o Dedicated Client Success and Customer Service managers</li></ul>	
<b>Ticket Prices:</b> Ticket prices will be determined by Client <ul style="list-style-type: none"><li>o All Ticket pricing to be confirmed during an initial planning session between the parties, which shall occur no later than thirty (30) days after the Effective Date of this Agreement.</li></ul>	
<b>Fees:</b> For all Events through Fevo, Fevo will charge the following fees (collectively, the "Fees"): <ul style="list-style-type: none"><li>1) Ticket fees ("Processing Fees") to be charged to the Customer on a per-Ticket basis:<ul style="list-style-type: none"><li>a. \$0 USD for Tickets priced at \$0</li><li>b. \$2.00 USD for Tickets priced up to and including \$20</li><li>c. \$2.50 USD for Tickets priced above \$20 and up to and including \$30</li><li>d. \$3.00 USD for Tickets priced above \$30 and up to and including \$45</li><li>e. \$3.50 USD for Tickets priced above \$45 and up to and including \$55</li><li>f. \$4.50 USD for Tickets priced above \$55 and up to and including \$65</li><li>g. \$6.50 USD for Tickets priced above \$65 and up to and including \$75</li><li>h. \$8.50 USD for Tickets priced above \$75 and up to and including \$150, and</li><li>i. \$10 USD for all other Tickets priced above \$150.</li></ul></li><li>2) Credit/Debit Card processing fees equal to 2.9% + \$0.30 USD per successful card charge, netted out of amounts payable to Client as Settlement Payments. An additional 1% will be charged for non-U.S. issued cards or where currency conversion is necessary.</li></ul>	
<b>Client Properties:</b> Webpages and Groups as requested and determined by Client, for the use of Fevo Widgets (defined in Section 1.1 of Exhibit A) and Fevo Pages, respectively.	
<b>Delivery of Ticket Details:</b> Based on Client business rules.	
<b>Other Terms:</b> This Agreement incorporates the Terms and Conditions set forth in Exhibit A. The Initial Term of the Agreement commences on the Effective Date (defined in Section 11.1 of Exhibit A) and expires on 12/31/19.	

<b>Host Committee, Inc. d/b/a Fevo:</b>  By:  Name: Ari Daie Title: President & CEO Date: 8/1/18	<b>Client:</b>  By:  Name: Marvin Lewis Title: Assoc. AD - CFO Date: 8/1/18
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**EXHIBIT A**

## TERMS AND CONDITIONS

### 1. SERVICES AND LICENSES.

1.1 Generally. Subject to the terms and conditions of this Agreement, Fevo will provide Client with services regarding (a) the display and use of certain widgets (“**Fevo Widgets**”) on the Client Properties (set forth on the Order Form) and (b) the sale of tickets (“**Tickets**”) for the Events (set forth on the Order Form) via the Client Properties and the Fevo Website (defined below), or as otherwise mutually agreed by the parties from time to time (collectively, the “**Services**”) in the United States and Canada (and any other countries added in accordance with Section 1.5, the “**Territory**”). Client agrees that Fevo shall be Client’s exclusive provider of services similar to the Services, including services relating to social sales of Tickets, during the Term.

1.2 Client Content. Client hereby grants Fevo a nonexclusive and royalty-free right and license to access, copy, perform, modify, display, process and otherwise use the content, information and materials originated by Client that Client submits or provides in connection with the Services (the “**Client Content**”), solely for the purpose of performing the Services. Client shall reasonably cooperate with Fevo to provide any Client Content necessary for Fevo’s performance of the Services. Client agrees that it shall bear all responsibility and liability for the accuracy, completeness, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right of the Client Content and Fevo’s access, possession and use as permitted herein.

1.3 Fevo Licenses. Subject to the terms and conditions of this Agreement, Fevo grants Client a nonexclusive, nontransferable right and license (without right to sublicense), in the Territory, to (a) embed the code provided by Fevo hereunder on the Client Properties solely to utilize the Fevo Widgets with the Client Properties; and (b) use and display the Fevo Widgets solely on the Client Properties. Fevo shall implement, in consultation with Client, aesthetic modifications to the Fevo Widgets in order to match the general look and feel of Client’s branding elements. Fevo will not be liable for (i) any failures in the Fevo Widget, Services, or any other problems which are related to the Client Content, (ii) any equipment or service outside of Fevo’s facilities or control, or (iii) unauthorized access, breach of firewalls or other hacking by third parties.

1.4 Suspension Rights. Without limiting any other rights or remedies, Fevo, at its sole discretion, may suspend Client’s access to the Services if Fevo believes (i) that Client has violated, or Client’s use of the Services is in violation of, any of the terms of this Agreement, (ii) that there has been an excessive number of disputes, refunds or reversals or (iii) there has been fraud, unlawful or other suspicious activity.

1.5 Territory Expansion. Fevo and Client may agree to include additional counties or territories in the Territory by executing a territory-specific addendum, substantially in the form of Exhibit B, which shall set forth the additional rights and obligations, if any, of each party in such country or territory (each, an “**Addendum**”).

1.6 Charity Events. The parties may agree in an Order Form to enable the Services for charity Events (“**Charity Events**”). In such event, Client will make available to Fevo documents that detail Client’s due diligence and registration process for charities, which include certain risk-based controls such as AML and KYC screenings. Upon Fevo’s reasonable request from time to time, Client will provide updates thereto. With respect to any use of the Services for Charity Events, Client is responsible for applicable tax reporting obligations imposed by tax and other regulatory authorities in each Territory, including 1099-K reporting.

### 2. PROPRIETARY RIGHTS.

2.1 Client. Except for the limited licenses expressly granted in this Agreement, no other rights or licenses are granted, no other uses are permitted and Client shall retain all right, title and interest (including all intellectual property and proprietary rights embodied therein) in and to the Client Content. Nothing herein shall limit Fevo’s ability to provide services similar to the Services to any other person.

2.2 Fevo. Except for the limited licenses expressly granted in this Agreement, no other rights or licenses are granted, no other uses are permitted and Fevo (and its licensors) shall retain all right, title and interest (including all intellectual property and proprietary rights embodied therein) in and to (a) the Fevo Widgets; (b) Fevo’s website located at the URL [www.fevo.com](http://www.fevo.com) (the “**Fevo Website**”); and (c) any information or data (including behavioral data, interest based data, inferred data and geo-local data) about any end user of the Fevo Website and that Fevo collects, stores or uses (the “**Fevo Information**”, together with the Fevo Widgets, Fevo Pages and Fevo’s Website, the “**Fevo Properties**”).

2.3 Restrictions. Client shall not directly or indirectly (a) rent, lease, sublicense, encumber, distribute, transfer, copy, reproduce, modify or timeshare any Fevo Property or any portion thereof; (b) use any of information provided to it by Fevo to create any application, service, software or documentation that is similar to any Fevo Property; (c) adapt, combine, create derivative works of or otherwise modify any Fevo Property; (d) translate, disassemble, decompile, reverse engineer or otherwise attempt to discover any source code, algorithms or trade secrets underlying any Fevo Property or any portion thereof (except and only to the extent these restrictions are expressly prohibited by applicable statutory law); (e) use, or permit the use

of, the Services in violation of applicable local, state or federal law, statute, rule, regulation legislation, or order, or industry code, policy or standard (“**Law**”), or (f) use or allow the transmission, transfer, export, re-export or other transfer of any product, technology or information it obtains or learns pursuant to this Agreement (or any direct product thereof) in violation of any export control or other laws and regulations of the United States or any other relevant jurisdiction.

2.4 General Learning. Client agrees that Fevo is free to use data relating to Client’s Services usage and performance in order to create and use aggregated and anonymized usage data that does not contain any reference to Client or its Affiliates (or that would disclose to the public any Client Confidential Information, as defined below), and to reuse all general knowledge, experience, feedback, know-how, works and technologies (including ideas, concepts, processes and techniques) acquired during provision of the Services (including that which it could have acquired performing the same or similar services for another client) to the extent that the same does not include the intentional disclosure of any Client Confidential Information.

### **3. FEVO OBLIGATIONS.**

3.1 Ticket Orders. Fevo shall accept and be responsible for the processing of online orders for Tickets to Events made through the Fevo Widget, and shall submit the Settlement Payment to Client in accordance with Section 6.

3.2 Support. Fevo shall provide general support to purchasers of Tickets (“**Customers**”) through the Fevo Widget, including but not limited to answering questions about the Events, subject to Section 4.3.

3.3 Event Pages on Fevo Website. Fevo shall implement, in consultation with Client, a page on the Fevo Website for each Event through which a Customer’s friends and invitees may also purchase Tickets to the Event.

### **4. CLIENT OBLIGATIONS.**

4.1 Integration. Client shall integrate the Fevo Widget onto the Client Properties as set forth on an applicable Order Form and in accordance with Fevo’s reasonable instructions.

4.2 Ticket Holds. Unless otherwise agreed, Client will place holds (i.e., withhold from sale) (the “**Ticket Holds**”) on a mutually agreed number seats (in locations determined by Client in its sole discretion and communicated to Fevo via a seating map) at the applicable Ticket prices to each Event.

4.3 Support. Client shall provide second level support for questions about the Events that cannot be answered by Fevo and for all Ticket sales.

4.4 Charities. With respect to any Charity Events, Client will screen the charity and related fundraising campaign against relevant compliance databases (such as the list maintained by the U.S. Department of the Treasury’s Office of Foreign Assets Control), and will provide Fevo with a response indicating whether the initial screening produced a positive or negative result. Fevo will not be required to provide the Services for use with any Charity Event that receives a positive result on such screening. Client has available and will employ procedures to reasonably ensure that funds received for use by charity entities cannot be used in contravention of laws regarding money laundering, fraud or conspiracy. Client will employ resources to investigate suspicious activity or persons and to eliminate suspicious or unlawful behavior.

### **5. PERSONAL INFORMATION.**

5.1 Personal Information. The parties acknowledge that in performing their obligations hereunder, each party may obtain from the other party or have access to, or otherwise store, process or transmit, certain personally identifiable information of the other party and Customers and their respective employees, agents or customers, including names, email addresses, financial information, mailing address, occupation, and title (“**PII**”). Each party represents and warrants that it has the right to share such PII with the other party and that such party may use the PII as provided for herein.

5.2 PII Collected Through Client Properties. The parties agree that all PII collected by Fevo in connection with Ticket sales made through the Fevo Widgets on Client Properties shall, as between the parties, be jointly owned by Fevo and Client. Fevo agrees to make available to Client such information upon the conclusion of each Event to the extent permitted by applicable Law.

5.3 PII Collected Through Fevo Website. The parties agree that all PII collected by Fevo in connection with Ticket sales for Events on the Fevo Website shall, as between the parties, be jointly owned by Fevo and Client. Fevo agrees to make available to Client such information upon the conclusion of each Event to the extent permitted by applicable Law.

5.4 Limited Use. Each party agrees that at all times during the Term, it will comply with its obligations under all applicable privacy, security and data protection Laws of any applicable jurisdiction, including with respect to the collection, processing, storage, protection and disclosure, of PII.

5.5 Information Requests. Within seven (7) days of receipt of Fevo’s written request for information, Client will provide to Fevo information: (i) required by Fevo’s payment processor(s); or (ii) required to comply with applicable Law.

## 6. PAYMENTS.

6.1 Billing and Payment Terms. Fevo will collect all proceeds from Ticket sales under this Agreement and remit such proceeds to Client, less the Fees, amount of CDs (defined in Section 6.3) and any amounts refunded or to be refunded to Customers (the “**Settlement Payment**”). Fevo will use commercially reasonable efforts to remit Settlement Payments to Client by bank transfer, check or other mutually agreed to method within seven (7) business days following the Event.

6.2 Refunds. All Ticket sales are final, unless the Event is canceled or Client authorizes a refund prior to the Event in its sole discretion. If an Event is canceled or Client authorizes refunds to Ticket buyers, Fevo will refund to Ticket buyers who request refunds the Ticket face value. Fees generated from such Ticket sale are non-refundable. It is agreed and understood that Fevo’s obligation to make any refunds is subject and limited to Fevo holding (or as described below, receiving from Client) the full amount of funds necessary to make refunds to all Ticket buyers properly entitled to a refund. Fevo may set off such refunds against any Settlement Payments payable to Client. If the amount of any Settlement Payment held by Fevo and not yet paid to Client is insufficient to cover refunds, Fevo will invoice Client for the total amount due and Client will provide Fevo with sufficient funds to cover such refunds within 30 days of receiving an invoice therefor.

6.3 Chargebacks and Disputes. Client is solely responsible for all chargebacks and disputed charges and the Fees associated therewith (collectively and individually, “**CDs**”), including those due to user or Customer error. Fevo will use commercially reasonable efforts, on behalf of Client, to reverse any CDs. In certain circumstances where Fevo determines the risk of loss is higher than normal, Fevo may place a portion of the Settlement Payments in reserve, which Client hereby authorizes Fevo to do. Upon or after establishing the reserve, Fevo will notify Client of the amount, timing and conditions for release of such reserve funds to Client. Fevo reserves the right to deduct CDs from the Settlement Payment and reserve. If the then current month’s Settlement Payment is insufficient to cover CDs, Fevo will invoice Client for the amount due (including any amount necessary to replenish the reserve) and Client will provide Fevo with sufficient funds to cover such CDs within thirty (30) days of receiving the invoice.

6.4 Taxes. Client is solely responsible for, and shall timely pay, any income, withholding, property, excise, sales, use or transfer taxes or fees (“**Taxes**”), which accrue or become due or payable, arising out of use of the Services and the gross proceeds from Ticket sales, including any such Taxes relating to the Settlement Payments.

## 7. CONFIDENTIALITY.

7.1 Confidential Information. “**Confidential Information**” means any and all proprietary or non-public information in any form that is identified as confidential or proprietary or that by the nature of the information should, in good faith, be treated as proprietary or confidential, including any source code. All Confidential Information provided by the disclosing party will be maintained in confidence by the receiving party, and receiving party will not, during the Term of this Agreement and for a period of two (2) years (or, in the case of any trade secrets or source code, indefinitely) following the expiration or termination of this Agreement, divulge to any person or organization, or use in any manner whatsoever, directly or indirectly, for any reason whatsoever, any of the Confidential Information without receiving the prior written consent of disclosing party. In the event this Agreement is terminated for any reason, or at any time upon the request of disclosing party, receiving party agrees to return or destroy such Confidential Information, at the option of disclosing party, not including any information required for receiving party to use or provide the Service.

7.2 Scope. Client acknowledges that Fevo does not wish to receive any Confidential Information from Client that is not necessary for Fevo to perform its obligations under this Agreement. Fevo will not use Confidential Information for any other purposes than in connection with performing its obligations and exercising its rights hereunder. Fevo shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Confidential Information.

7.3 Exceptions. The foregoing obligations shall not apply to any Confidential Information that (a) was already known by receiving party prior to disclosure by the disclosing party without restriction, (b) rightfully and lawfully furnished to it without restriction by a third party not in breach of any obligation to disclosing party, (c) generally available to the public without breach of this Agreement or (d) independently developed by receiving party.

7.4 Compelled Disclosure. Nothing herein shall prevent either party from disclosing any Confidential Information as necessary pursuant to any court order or any legal, regulatory, law enforcement or similar requirement or investigation; provided that, prior to any such disclosure, the receiving party shall use reasonable efforts to (a) promptly notify the disclosing party in writing of such requirement to disclose and (b) cooperate with the disclosing party (at the disclosing party’s expense) in protecting against or minimizing any such disclosure or obtaining a protective order.

7.5 Nothing in this Section 7 shall be construed to convey to the receiving party any right, title or interest in or to any Confidential Information, or any license to use, sell, exploit, copy or further develop any such Confidential Information, except that the receiving party may use Confidential Information as expressly permitted herein.

## 8. WARRANTIES AND DISCLAIMERS.

8.1 General Warranties. Each party represents and warrants to the other that: (a) it has full right, power and authority to enter into and fully perform its obligations under this Agreement; and (b) the execution, delivery and performance of this Agreement by that party does not conflict with any other agreement to which it is a party or by which it is bound or with Law to that party.

8.2 Additional Fevo Representations. Fevo warrants to Client that the Services will be performed in a professional and workmanlike manner.

8.3 Additional Client Representations. Client represents and warrants, on behalf of itself and any of its Affiliates (as defined below), successors, parents, or subsidiaries, that (a) it owns all right, title and interest, or possesses sufficient license rights, in and to the Client Content as may be necessary to permit the use contemplated under this Agreement, and the use thereof will not infringe, misappropriate or otherwise violate any copyright, trademark, or other intellectual property right or right of privacy or publicity of any third party or any Laws, (b) as applicable, Client is registered for sales and use tax collection purposes in all states in which Client's goods and services will be provided pursuant to the terms and presentation of Tickets; (c) Tickets, upon being activated and delivered to Ticket buyers by Fevo shall be available immediately for redemption by the Ticket buyer; and (d) Client's use of the Services and the terms and conditions of Tickets, including any discounts or incentives or goods and services offered thereunder, comply with all, and do not and will not violate any Laws, including but not limited to, (i) all Laws governing the use, sale, and/or distribution of alcohol, (ii) all Laws governing vouchers, gift cards, coupons, and/or gift certificates, and (iii) the CAN-SPAM Act of 2003 (i.e., 15 U.S.C. § 7701). With respect to Charity Events, Client warrants that its systems, technology, policies and procedures have been designed and developed to ensure that its activities with respect to handling donations will conform to all applicable Laws, including being properly licensed in each jurisdiction in which the conduct of such activities requires it to be so licensed. "Affiliate" means, as to an entity, any other entity directly or indirectly controlling, controlled by, or under common control with, such entity.

8.4 Disclaimers. THE SERVICES ARE PROVIDED AS-IS, AND CLIENT'S USE OF THE SERVICES IS AT CLIENT'S SOLE RISK. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 8, THE SERVICES AND FEVO PROPERTIES ARE PROVIDED WITHOUT ANY OTHER WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, FEVO MAKES NO REPRESENTATION OR WARRANTY (I) THAT THE SERVICES WILL MEET CLIENT'S REQUIREMENTS OR BE UNINTERRUPTED, ERROR-FREE OR BUG-FREE, (II) REGARDING THE SECURITY, RELIABILITY, TIMELINESS, OR PERFORMANCE OF THE SYSTEM, (III) THAT ANY ERRORS IN THE SYSTEM WILL BE CORRECTED, OR (IV) THAT THE SERVICES OR THE FEVO PROPERTIES DO NOT INFRINGE, MISAPPROPRIATE OR OTHERWISE VIOLATE THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 8, TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY HEREBY DISCLAIMS (FOR ITSELF, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE LICENSORS AND SUPPLIERS) ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ALL IMPLIED WARRANTIES OF NON-INFRINGEMENT, INTEROPERABILITY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

## 9. INDEMNIFICATION.

9.1 Fevo Indemnification. Fevo agrees to defend, indemnify and hold harmless Client from and against any and all damages, costs, expenses, liabilities, claims and causes of action, including reasonable attorneys' fees, expenses and costs in the defense and disposition of such matters and in relation to enforcing this indemnification provision (together, "Claims") in any way arising by reason of or relating to any claim by any third party (including any governmental authority) arising from or relating to a claim that the Fevo Properties infringe or misappropriate any copyright, patent, trade secret or other intellectual property right of such third party in the Territory. Fevo shall have no obligation to Client hereunder to the extent such Claims are caused by (a) any use of the Fevo Properties not strictly in accordance with this Agreement, (b) modifications to the Fevo Properties, or combinations of the Fevo Properties with properties, hardware, software or other materials, not provided by Fevo, (c) that portion of the Fevo Properties that implements Client's requirements, specifications or instructions, (d) Client Confidential Information or Client Content, (e) Client's continuing allegedly infringing activity after being notified that such activity was alleged to be infringing, and (f) Client's continuing use of any version of the Fevo Properties after being provided modifications that would have avoided the alleged infringement (collectively, the "Fevo Indemnity Exclusions"). The foregoing states the entire liability of Fevo, and the Client Indemnified Parties' exclusive remedy, with respect to any actual or alleged violation of intellectual property rights by the Services or any part thereof or by its use or operation.

9.2 Client Indemnification. Client agrees to defend, indemnify and hold harmless Fevo and its Affiliates, and their respective directors, officers, employees, consultants, agents, subcontractors and licensors ("Fevo Indemnified Parties") from and against any and all Claims in any way arising by reason of or relating to: (a) Client's use or disclosure of PII in violation of Fevo's or Client's privacy policies or statements; (b) Client's breach of this Agreement or any violation of applicable Law; (c) any claim or allegation that any Client Content or Fevo's use of such Client Content infringes or

misappropriates any patent, trademark, copyright, trade secret or other intellectual property or proprietary right of any third party; (d) any Taxes arising from the transactions related to this Agreement, including the sale and subsequent redemption of Tickets (and including any interest, penalties or fines imposed by any competent court or tax authority); (e) any local, state or federal governmental entity Claims for unredeemed Tickets or unredeemed cash values of Tickets or any other amounts under any applicable Law, including any abandoned or unclaimed property or escheat law, including but not limited to any claims for penalties and interest; (f) the products and services provided by Client, including but not limited to, any claims for false advertising, failure to deliver Tickets, product defects, personal injury, death, or property damages; (g) the Events; or (i) any acts or omissions that are Fevo Indemnity Exclusions.

9.3 **Procedure.** The indemnification obligations set forth in this Agreement are conditioned upon (a) the indemnified party providing the indemnifying party with prompt written notice thereof and reasonable cooperation, information, and assistance in connection therewith, provided, however, that failure to provide such notice shall not relieve the indemnifying party from its liability or obligation hereunder, except to the extent of any material prejudice as a direct result of such failure, (b) the indemnifying party having sole control and authority to defend, settle or compromise such claim, provided that the indemnified party must approve the terms of any settlement or compromise that may impose any liability on, or adversely impact, the indemnified party (including its rights and obligations), and (c) cooperation of the indemnified party, at the indemnifying party's expense, in connection with the settlement and defense of the applicable claim.

**10. LIMITATION OF LIABILITY.** EXCEPT FOR LIABILITIES TO THIRD PARTIES PURSUANT TO ANY INDEMNIFICATION OBLIGATION UNDER SECTION 9 OR ANY BREACH OF SECTION 7, IN NO EVENT SHALL EITHER PARTY (OR ITS AFFILIATES) BE LIABLE TO THE OTHER PARTY (OR TO ANY THIRD PARTY CLAIMING UNDER OR THROUGH SUCH PARTY) CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION (WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), FOR ANY (A) MATTER BEYOND ITS REASONABLE CONTROL, (B) LOST PROFITS, LOSS OR INACCURACY OF DATA, LOSS OR INTERRUPTION OF USE, OR COST OF PROCURING SUBSTITUTE TECHNOLOGY, GOODS OR SERVICES, (C) INDIRECT, PUNITIVE, INCIDENTAL, RELIANCE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, REVENUES, AND GOODWILL OR (D) DAMAGES, IN THE AGGREGATE, IN EXCESS OF THE AMOUNTS PAID HEREUNDER WITH RESPECT TO THE SERVICE THAT GAVE RISE TO THE CLAIM DURING THE PRECEDING TWELVE (12) MONTH PERIOD, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY REMEDY PROVIDED HEREIN.

## **11. TERM AND TERMINATION.**

11.1 **Term.** This Agreement shall commence on the date last signed by the parties (the “Effective Date”) and shall continue for the Initial Term as specified on an applicable Order Form. At the end of Initial Term or then-current Renewal Term (as applicable), the Agreement will automatically renew for successive one (1) year periods (each, a “Renewal Term” and together with the Initial Term, the “Term”), unless either party otherwise provides the other party with written notice of its intent to terminate at least ninety (90) days prior to the expiration of the then-current Term.

11.2 **Termination.** This Agreement may be earlier terminated by either party (a) if the other party materially breaches a provision of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice of such breach from the non-breaching party, or (b) immediately upon written notice, if the other party makes any assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of any or all of the other party's property, or the other party seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding or such a proceeding is instituted against the other party and is not dismissed within ninety (90) days, or the other party becomes judicially declared insolvent or, without a successor, dissolves, liquidates or otherwise fails to operate in the ordinary course.

11.3 **Effects of Termination.** Upon any expiration or termination of this Agreement, all rights, obligations and licenses of the parties shall cease, except that (a) all obligations that accrued prior to the effective date of termination (including all payment obligations) and all remedies for breach of this Agreement shall survive, and (b) the provisions of Sections 3, 5.4, 7, 9, 10, this 11.3, and 12 shall survive any expiration or termination of the Agreement.

## **12. GENERAL PROVISIONS.**

12.1 **Entire Agreement.** This Agreement (including all Order Forms and Addenda) constitutes the entire agreement, and supersedes all prior negotiations, understandings or agreements (oral or written), between the parties about the subject matter of this Agreement. No waiver, consent or modification of this Agreement shall bind either party unless in writing and signed by the party against which enforcement is sought. The failure of either party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights. If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that



this Agreement will otherwise remain in full force and effect and enforceable. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument.

12.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, USA, without regard to its conflicts of law provisions. The sole and exclusive venue for actions related to or arising out of this Agreement will be the state and federal courts located in New York county, New York, and both parties consent to the jurisdiction of such courts with respect to any such action. In any action or proceeding to enforce or interpret this Agreement, the prevailing party will be entitled to recover from the other party its costs and expenses (including reasonable attorneys' fees) incurred in connection with such action or proceeding and enforcing any judgment or order obtained.

12.3 Remedies. Except as specifically provided otherwise, each right and remedy in this Agreement is in addition to any other right or remedy, at law or in equity. Each party agrees that, in the event of any breach or threatened breach of Section 7, the non-breaching party will suffer irreparable damage for which it will have no adequate remedy at law. Accordingly, the non-breaching party shall be entitled to injunctive and other equitable remedies to prevent or restrain such breach or threatened breach, without the necessity of posting any bond.

12.4 Publicity. During the Term of this Agreement, Fevo may use Client's name and logo on the Fevo Website and in other promotional materials such as customer lists and other promotional and marketing materials.

12.5 Force Majeure. In the event that either party is prevented from performing, or is unable to perform, any of its obligations under this Agreement (except payment obligations) due to any cause beyond its reasonable control, the affected party shall give written notice thereof to the other party and its performance shall be extended for the period of delay or inability to perform due to such occurrence.

12.6 Notices. Any notice or communication hereunder shall be in writing and either personally delivered or sent via confirmed facsimile, recognized express delivery courier or certified or registered mail, prepaid and return receipt requested. Notices to Client shall be delivered to the address provided in the Order Form. Notices to Fevo shall be delivered to the following address: 373 Park Ave S, 5th Floor, New York, NY 10016. Either party may update its notice address by providing written notice thereof to the other party. All notices shall be in English, effective upon receipt.

12.7 Assignment. This Agreement and the rights and obligations hereunder may not be assigned, in whole or in part, by either party without the other party's written consent, not to be unreasonably withheld. However, without consent, Fevo may freely assign this Agreement to any successor to all or substantially all of its business that concerns this Agreement (whether by sale of assets or equity, merger, consolidation or otherwise). Any assignment in violation of this Section 12.7 shall be deemed null and void *ab initio*. Fevo may use contractors and other third party service providers in performing the Services. This Agreement shall be binding upon, and inure to the benefit of, the successors, representatives and permitted assigns of the parties hereto.

12.8 No Third-Party Beneficiaries. Except as otherwise provided herein (including in the indemnification provisions), this Agreement is solely for the benefit of the parties hereto, and nothing in this Agreement shall be deemed to create any third-party beneficiary rights in any person or entity not a party to this Agreement.

12.9 Independent Contractors. The parties shall be independent contractors under this Agreement, and nothing herein will constitute either party as the employer, employee, agent or representative of the other party, or both parties as joint venturers or partners for any purpose.

12.10 Headings; Construction. The headings contained herein are for the convenience of reference only and are not intended to define, limit, expand or describe the scope or intent of any provision of this Agreement. Whenever the words "include", "includes", "including", "in particular" or "such as" are used, they are deemed to be followed by the words "without limitation".

